

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

CAROL VALENCIA

Plaintiff,

v.

CIV. No. 13-975 SCY/KBM

SMITH & NEPHEW, INC.

Defendant.

**ORDER RESETTING JURY TRIAL**

Upon review of the matter, the following settings and deadlines are hereby imposed.

A **Pretrial Conference** will be held on **December 16, 2015, at 9:30 a.m.** in the **Hondo Courtroom at the United States Courthouse, 333 Lomas Blvd NW, Albuquerque, New Mexico**. All attorneys who will be participating in the trial of this matter must be present for the pretrial conference. The parties need not be present. All motions in limine shall be heard at the pretrial conference.

**Jury Selection and Jury Trial** will begin on **January 19, 2016, at 9:00 a.m. in the Hondo Courtroom, United States District Court, 333 Lomas Blvd NW, Albuquerque, New Mexico**.

**Motions in Limine:** All motions in limine<sup>1</sup> are due **November 18, 2015**. Any responses or objections are due **December 1, 2015**.

**Witness Lists:** The parties shall file their witness lists, which must disclose both witnesses that the parties “will call” and witnesses that they “may call” at trial. Witness lists are

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<sup>1</sup> Motions challenging the admissibility of expert testimony under *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579 (1993) are not motions in limine. *Daubert* motions shall be filed no later than the dispositive motion deadline.

due **November 18, 2015**. Any objections to a witness named by the opposing party must be filed by **December 1, 2015**.

**Designations and Counter-Designations of Deposition Testimony:** The parties shall file designations, and counter-designations, of deposition testimony that they intend to use at trial. The designations and counter-designations must state the pages and lines of the deposition to be used. Counsel must **jointly submit one physical copy** of each deposition to my chambers by the due date above and must highlight the parts of the depositions that are to be used. Plaintiff(s) will use a yellow marker and Defendant(s) a blue marker. These requirements do not apply to cross-examination or rebuttal of a witness presented in person at trial. Designations must be filed by **November 18, 2015**. Any objections to testimony designated by the opposing party, and any counter-designations, must be filed by **December 1, 2015**. If the parties wish to make further designations in light of the designations and counter-designations, leave for additional designations must be requested from the Court **at the pre-trial conference**.

**Exhibits:** The parties shall file one list of stipulated exhibits and separate lists of contested exhibits no later than **December 1, 2015**. They shall also submit two books of marked exhibits to my chambers by the next business day. The first book shall include exhibits that the parties stipulate to be admissible, and shall be labeled consecutively. The second book shall include exhibits whose admissibility is contested, and shall be labeled consecutively beginning with the next sequential number after the final stipulated exhibit designation. For instance, if there are 50 stipulated exhibits, 20 contested plaintiff's exhibits, and 20 contested defendant's exhibits, the first notebook shall contain stipulated exhibits numbered 1 to 50. The second notebook shall contain plaintiff's contested exhibits numbered 51 through 70 and defendant's contested exhibits numbered 71 through 90.

In order to allow sufficient time for a party to decide whether to contest the admission of exhibits, each party must send a list of their proposed exhibits to the opposing party no later than **November 18, 2015**.

**Statement of the Case:** No later than **December 1, 2015**, the parties shall file a consolidated, clear, concise statement of the case, to be read by the Court to the jury at the beginning of trial. If counsel are unable to agree to a consolidated statement of the case, they shall file separate statements of the case. The parties shall meet and confer about the statement of the case no later than **November 18, 2015**.

**Jury Instructions:** The parties shall meet and confer about proposed jury instructions no later than **November 18, 2015**. Plaintiff is responsible for filing a set of requested jury instructions to which all of the parties agree. Requested instructions upon which the parties cannot agree must be filed separately by the requesting party. There shall be only one instruction per page and each instruction shall include a citation to supporting authority at the bottom of the page. All such filings are due **December 1, 2015**. On that same day, the parties must also email two copy of the instructions in Word format, one with, and one without citations, to [scyproposedtext@nmcourt.fed.us](mailto:scyproposedtext@nmcourt.fed.us).

A party must file written objections to an opposing party's requested instructions no later than **December 1, 2015**.

**IT IS SO ORDERED.**

/s/ Steven C. Yarbrough  
**STEVEN C. YARBROUGH**  
**UNITED STATES MAGISTRATE JUDGE**  
**Presiding by Consent**